

BURT LAKE BAND OF OTTAWA AND CHIPPEWA INDIANS
REAFFIRMATION ACT

JULY 29, 2008.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 1575]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1575) to reaffirm and clarify the Federal relationship of the Burt Lake Band as a distinct federally recognized Indian Tribe, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Burt Lake Band of Ottawa and Chippewa Indians Reaffirmation Act”.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) The members of the Burt Lake Band of Ottawa and Chippewa Indians, whose historic name is the Cheboigan (or Cheboygan) Band, are descendants and a political successor to signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit. The treaty signatories were twice recognized by the United States, on a government-to-government relationship basis, through the execution and ratification of those treaties.

(2) The 1836 Treaty of Washington provided that the Cheboigan Band would receive a reservation of 1,000 acres on the Cheboigan, within its aboriginal territory, for a period of 5 years after ratification of that treaty but the United States failed to provide that reservation. The 1855 Treaty of Detroit provided that Ottawa and Chippewa Indians could select individual allotments of land within designated reserves, and 2 townships were set aside for selection by the “Cheboygan Band” in Cheboygan County. Those members who selected allotments within that area were not awarded those individual land holdings until 3 years after a special Act of Congress was passed in 1872.

(3) Between 1845 and 1850 the Band's members used treaty annuity payments to purchase land for the Band in Burt Township, Cheboygan County, Michigan. That land, called Colonial Point, was placed in trust with the Governor of Michigan on the advice of Federal Indian agents.

(4) During the next 50 years, questions arose regarding the taxability of the property, and the acreage was ultimately sold for back taxes in 1900.

(5) After the Band was forcibly evicted from Colonial Point and its village was burned to the ground by its new owner, John McGinn, the majority of the Band's families took up residency on nearby Indian Road on lands which other Band members had purchased or received as treaty allotments or homesteads.

(6) In 1911, the United States filed suit in the United States Federal District Court for Eastern Michigan seeking to regain possession of the Colonial Point Lands (United States v. McGinn, Equity No. 94, filed June 11, 1911). In its complaint, the United States advised the Court that it was suing on behalf of the "Cheboygan band of Indians [which] is now and was at all the times mentioned in this bill of complaint a tribe of Indians [sic] under the care, control, and guardianship of the plaintiff and said band is now and was at all times mentioned in this bill of complaint recognized by the plaintiff through its chiefs or head men which it annually elects."

(7) In 1917, the Federal District Court decided the McGinn case against the United States finding that the language in the Colonial Point deeds did not prevent the Colonial Point land from being taxed.

(8) Over the next 20 years, Acting Chief Enos Cabinaw, acting on behalf of the Cheboygan Band, asked the United States to appeal or otherwise rectify the District Court's decision, but no Federal action was taken. Throughout this period, the United States continued to provide the Band and its members with many of the same Federal services that were being provided to other Indian tribes in Michigan.

(9) The Act of June 18, 1934 (hereafter in this Act referred to as the "Indian Reorganization Act"), authorized and directed the Bureau of Indian Affairs to provide technical assistance and Federal funds to petitioning tribes to assist them in reorganizing their governments and improving their economies. Members of the Cheboigan Band, as well as members of other landless treaty Tribes in Michigan, submitted petitions to receive that assistance. Similar petitions were also submitted by 4 Michigan bands that still held communal lands. Possession of a tribal land base was a prerequisite to the receipt of most of the Federal funds and services provided for in the Indian Reorganization Act.

(10) While the Indian Reorganization Act directed the Secretary to assist landless bands, like Burt Lake, and authorized Federal funds to acquire land, no Federal funds were appropriated to acquire new tribal lands for any of the landless bands in Michigan. After struggling with this dilemma, the Bureau of Indian Affairs extended the benefits of the Indian Reorganization Act to only those 4 Michigan tribes that had an existing land base on the date of the enactment of the Indian Reorganization Act. Of the Ottawa and Chippewa Tribes who signed the 1836 and 1855 Treaties, only 1 group, the Bay Mills Indian Community, was organized under the Indian Reorganization Act.

(11) The failure of the Bureau of Indian Affairs to grant Indian Reorganization Act benefits to the Cheboigan Band did not terminate the band's government-to-government relationship with the United States, and Congress has never taken any action to terminate Federal acknowledgment of the Burt Lake Band.

(12) The Bureau of Indian Affairs does not have the legal authority to terminate a tribe that has been acknowledged by an Act of Congress.

(13) Since 1972, the following Michigan tribes that were not organized under the Indian Reorganization Act, have been recognized or reaffirmed as federally recognized Indian tribes:

(A) The Sault Ste. Marie Tribe of Chippewa was reaffirmed by a Memorandum of the Commissioner of Indian Affairs on September 7, 1972.

(B) The Grand Traverse Band of Ottawa and Chippewa Indians was acknowledged by the Assistant Secretary of Indian Affairs on May 27, 1980.

(C) The Little Traverse Bay Bands of Odawa Indian and the Little River Band of Ottawa Indians each had its Federal status reaffirmed by an Act of Congress on September 21, 1994.

(D) The Lac Vieux Desert Band of Lake Superior Chippewa Indians had its Federal status as a separate Indian tribe reaffirmed by an Act of Congress at the request of the Administration on September 8, 1988.

(E) The Pokagon Indian Nation had its Federal status reaffirmed by an Act of Congress on September 21, 1994.

(F) The Huron Potawatomi Nation had its Federal status acknowledged by the Assistant Secretary of Indian Affairs on March 17, 1996.

(G) The Gun Lake Tribe (Match-She-Be-Nash-She-Wish) had its Federal status acknowledged by the Assistant Secretary of Indian Affairs on August 23, 1999.

(14) The Burt Lake Band has been consistently recognized by third parties as a distinct Indian community since well before 1900.

(15) The Burt Lake Band consists of members who are the children, grandchildren, or great grandchildren of Indian persons who resided on or near Colonial Point or Indian Road prior to 1910. The majority of the Band's adult members grew up on or near Indian Road or had an immediate family member who did. As the result, the Band's members have maintained very close social and political ties. The Band has its own, well-defined membership criteria, which requires the maintenance of tribal relations.

(16) The Burt Lake Band consists of families who have and continue to provide mutual aid to each other, visit each other regularly, mobilize to assist each other in times of need, practice traditional arts and crafts, gather for Ghost Suppers, decorate the graves of their ancestors, and participate in other traditional tribal ceremonies and events.

(17) Since 1829 the Burt Lake Band's members have attended and consistently mobilized to maintain the Indian Mission Church of St. Mary's, first on Colonial Point and later on Indian Road. The Burt Lake Band's members have also worked together to maintain the Tribe's 2 Indian cemeteries. They have also dug the graves and buried their relatives in those 2 Indian cemeteries for almost 200 years.

(18) The Burt Lake Band's members have throughout time made formal and informal decisions for the community. The Burt Lake Band has also organized its own modern tribal government without the assistance of the Bureau of Indian Affairs.

(19) The majority of the Band's elders have a high degree of Indian blood and continue to speak the Ottawa language when they gather with each other. Before World War II, more than 50 percent of the Burt Lake families were still speaking the traditional language in their homes, and more than 50 percent of those tribal members who were married were married to other Ottawa and Chippewa individuals.

(20) There is no evidence that the Band has willfully abandoned tribal relations and there is no evidence that the Congress has taken any legal action to terminate its government-to-government relations with the Burt Lake Band.

(21) Because the Bureau of Indian Affairs failed to review the Band's petition for over 20 years, a percentage of the Band's members enrolled in other Tribes in order to obtain the Federal services, most notably health care and prescription drug assistance, that they were legally entitled to, but denied as members of Burt Lake. This step was often taken on the advice of one or more employees of the Bureau of Indian Affairs. This dual enrollment situation has now created a new problem for the Band's reaffirmation, because the Bureau of Indian Affairs' current regulations prohibit it from recognizing a tribe when a part of the tribe's community is or was enrolled in another federally recognized tribe.

(22) In September 2006, the Assistant Secretary of Indian Affairs denied the Burt Lake Band's petition for recognition even though it found that the Burt Lake Band has been identified as an Indian entity by scholars, local and State officials, and other tribes, and even though it found that the members of the Burt Lake Band maintain a strong Indian community. In its letter denying the Burt Lake Band's petition, the Bureau of Indian Affairs stated that "Congress may consider taking legislative action to recognize petitioners that do not meet the specific requirements of the acknowledgment regulations but may have merit."

(23) The Burt Lake Band has exhausted its administrative remedies, therefore this Act is both necessary and appropriate.

SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions apply:

(1) The term "Burt Lake Band" means the Burt Lake Band of Ottawa and Chippewa Indians, a continuously existing historical tribe of Indians descending from the Cheboygan band which was included in treaties with the United States in 1836 and 1855 and descending from the Indian Village at Burt Lake in 1900.

(2) The term "Indian Reorganization Act" means the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(3) The term “OFA” means the Office of Federal Acknowledgment, a branch of the United States Department of the Interior’s Bureau of Indian of Indian Affairs.

(4) The term “Secretary” means the Secretary of the Interior.

SEC. 4. FEDERAL RECOGNITION.

(a) **FEDERAL RECOGNITION.**—The Burt Lake Band of Ottawa and Chippewa Indians is hereby reaffirmed as a federally recognized Indian tribe. All laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians, including the Indian Reorganization Act, which are inconsistent with any specific provision of this Act shall not be applicable to the Burt Lake Band and its members.

(b) **FEDERAL SERVICES AND BENEFITS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, after the date of the enactment of this Act, the Burt Lake Band and its members shall be eligible for all services and benefits provided by the Federal Government to Indians because of their status as federally recognized Indians without regard to the existence of a reservation or the location of the residence of any member on or near any Indian reservation.

(2) **SERVICE AREA.**—For purposes of the delivery of Federal services to the enrolled members of the Burt Lake Band and to other Indians, all of Cheboygan County Michigan, and any area in the State of Michigan that is outside of Cheboygan County, but located within 25 miles of the Burt Lake Band’s Cemetery at the St. Mary’s Indian Mission Church, shall be deemed to be within the Service Area of the Burt Lake Band. Nothing contained herein shall prohibit the Federal Government from providing services to members of the Burt Lake Band who reside or are domiciled outside this Service Area, or from otherwise expanding the Burt Lake Band’s Service Area in compliance with applicable Federal law and policy. Nothing in this subsection is intended to diminish or alter the service area of another Federally recognized Indian tribe. If any part of the Burt Lake Band’s service area overlaps with the service area of another federally recognized Indian tribe, that overlap shall be addressed in compliance with existing Federal policies and regulations.

SEC. 5. REAFFIRMATION OF RIGHTS.

(a) **IN GENERAL.**—All rights and privileges of the Burt Lake Band and its members, which may have been abrogated or diminished before the date of the enactment of this Act are hereby reaffirmed.

(b) **EXISTING RIGHTS OF BURT LAKE BAND.**—Nothing in this Act shall be construed to diminish any right or privilege of the Burt Lake Band or of its members that existed before the date of the enactment of this Act. Except as otherwise specifically provided in any other provision of this Act, nothing in this Act shall be construed as altering or affecting any legal or equitable claim the Burt Lake Band may have to enforce any right or privilege reserved by or granted to the Burt Lake Band which was wrongfully denied to or taken from the Burt Lake Band before the date of the enactment of this Act.

SEC. 6. TRIBAL LANDS.

The Secretary shall acquire real property in Cheboygan County in trust for the benefit of the Burt Lake Band of Ottawa and Chippewa Indians, if at the time of such acceptance by the Secretary, there are no adverse legal claims on such property, including outstanding liens, mortgages or taxes owed, and the Secretary has confirmed that the National Environmental Policy Act of 1969 has been complied with regarding the trust acquisition of the property. After being taken into trust, such lands shall become part of the initial reservation of the Burt Lake Band at the request of the Burt Lake Band. The Secretary is also authorized to acquire and accept real property in other geographic areas into trust for the benefit of the Burt Lake Band and to declare those lands to be a part of the Burt Lake Band’s Reservation consistent with applicable law.

SEC. 7. MEMBERSHIP.

(a) **IN GENERAL.**—The initial membership of the Burt Lake Band of Ottawa and Chippewa Indians shall consist of persons who can present evidence, acceptable to the Burt Lake Band, showing that they meet the requirements of subsection (b), and persons who meet such other requirements as are specified by the Burt Lake Band in its Burt Lake Band’s Constitution and Enrollment Ordinance as the same may be from time-to-time amended.

(b) **MEMBERSHIP CRITERIA.**—

(1) To qualify for membership in the Burt Lake Band of Ottawa and Chippewa Indians, a person must be able to demonstrate through evidence accept-

able to the Burt Lake Band that the person meets at least 1 of the following requirements:

(A) The person descends from a tribal member who was domiciled at Colonial Point, Burt Township, Cheboygan County, Michigan, before or at the time that the Burt Lake Band's village was burned in October 1900, as the tribal members are identified as Colonial Point residents in the case files of the litigation initiated by John W. McGinn to evict former residents from that land, or in the list prepared in or about 1950 as the Albert Shananaquet list of pre-1900 village residents, or both.

(B) The person descends from a tribal member who is listed on the 1900 or 1910 Burt Lake Township Federal Census, Indian Enumeration Schedule.

(C) The person has an Indian ancestor who was, prior to 1910, living in tribal relations with the Burt Lake Band of Ottawa and Chippewa Indians as the Burt Lake Band is defined in this Act.

(2) In addition to the requirements under paragraph (1), to qualify for membership in the Burt Lake Band of Ottawa and Chippewa Indians, a person must be able to demonstrate through evidence acceptable to the Burt Lake Band that the person meets all of the following criteria:

(A) That the person is in tribal relations with other Burt Lake Band members.

(B) That the person's ancestors have lived in tribal relations with other Burt Lake Band members on a substantially continuous basis from 1910 to the present.

(C) That the person has a completed tribal membership enrollment file as prescribed by the Tribal Enrollment Ordinance.

(D) That the person's membership application has been processed and that the person has been approved for membership in the Burt Lake Band in the manner prescribed by the Tribal Enrollment Ordinance.

(c) **BASE ROLL.**—The Burt Lake Band shall provide a copy of the base roll of the Burt Lake Band of Ottawa and Chippewa Indians to the Assistant Secretary for Indians Affairs not later than 12 months after the date of the enactment of this Act. The base roll shall consist of the 320 persons whose names were listed on the official roll of the Burt Lake Band which were members submitted by the Burt Lake Band to the OFA on May 2, 2005, and shall also include the biological sons and daughters who were born to those members between the submission of that list and the enactment of this Act. The Base Roll shall also include those descendants of Burt Lake members who—

(1) meet the enrollment criteria established by this section;

(2) seek enrollment in the Burt Lake Band not later than 12 months after the date of the enactment of this Act; and

(3) are accepted for enrollment in the Burt Lake Band in the manner prescribed by the Burt Lake Band's Constitution.

SEC. 8. CONSTITUTION.

The initial constitution of the Burt Lake Band shall be the constitution that the Burt Lake Band submitted to the OFA on May 2, 2005.

PURPOSE OF THE BILL

The purpose of H.R. 1575 is to reaffirm and clarify the federal relationship of the Burt Lake Band as a distinct federally recognized Indian Tribe, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Burt Lake Band of Ottawa and Chippewa Indians (Burt Lake), whose historic name is the Cheboigan Band, descends from signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit. Between 1845 and 1850 Burt Lake's members purchased land for Burt Lake in Cheboygan County, Michigan. On the advice of federal Indian agents, that land, called Colonial Point, was placed in trust with the Governor of Michigan. Questions arose regarding the taxability of the property, and the acreage was ultimately sold in 1900 for unpaid back taxes. At this point, Burt Lake was forcibly evicted from Colonial Point and its village was burned

to the ground. In an action titled *United States v. McGinn, Equity, 1911*, the United States sued on behalf of Burt Lake seeking to regain possession of Colonial Point. Ultimately, the Federal District Court decided against the United States. Despite repeated requests by Burt Lake to the United States to appeal the decision, no additional federal action was taken. Regardless, the United States continued to provide Burt Lake and its members with many of the federal services that were being provided to other Indian tribes located in Michigan.

During the Indian Reorganization Era, the treaty tribes located in Michigan were divided into two groups: those still holding lands and those which had lost their lands through sales and forced cessions. Burt Lake fell into the latter category. Lacking funds to acquire land for those landless tribes, the Bureau of Indian Affairs (BIA) only extended benefits deriving from the Indian Reorganization Act to the Michigan tribes that still held lands. Although Burt Lake was unable to organize under the Indian Reorganization Act, the BIA provided Burt Lake members with education benefits, sent social workers to work with the Band, and provided limited health care to the members. Some members still receive health services today from the Indian Health Service.

Subsequently, the list of federally recognized tribes did not include the names of the landless tribes. It is important to note that Congress has never passed legislation terminating Burt Lake and that the BIA lacks the constitutional authority to terminate a Tribe which has been recognized by Congress.

Over the last 30 years, the legal status of all of the landless tribes located in Michigan, except Burt Lake and one other tribe, has been resolved either through Congressional action, Executive Order, or administrative decision.

Treaty of Washington and Treaty of Detroit

Through the execution and ratification of the 1836 Treaty of Washington and the 1855 Treaty of Detroit, the Burt Lake Band was recognized on a government-to-government basis by the United States. The Treaty of Washington reserved for Burt Lake a reservation of 1,000 acres on the Cheboigan River, within its aboriginal territory, but the United States failed to honor that provision. The 1855 Treaty of Detroit set aside two townships for selection by the Cheboygan Band, as Burt Lake was known at that time, in Cheboygan County. But due to the federal government's failure to act, those members who selected allotments within the area were not awarded land until three years after a special Act of Congress was passed in 1872.

Indian Reorganization Act of 1934 (25 U.S.C. 476)

In 1934, Burt Lake petitioned the Secretary of the Interior to reorganize under the Indian Reorganization Act (IRA). The BIA, however, only allowed those tribes in Michigan that held communal land to reorganize under the IRA. Because Burt Lake did not hold communal land and the BIA lacked resources to purchase land for landless tribes, Burt Lake was precluded from reorganizing under the IRA. Failure to reorganize under the Indian Reorganization Act does not terminate a Tribe's federal recognition.

Federal Acknowledgment Process (25 C.F.R. 83)

In 1987, Burt Lake filed a petition for federal acknowledgment. For approximately 13 years, Burt Lake waited and heard repeated promises from the BIA that it would address Burt Lake's claims but no action was taken. Finally, in 1998, Burt Lake was placed on the "active consideration list." In March 2004, the BIA issued a negative proposed finding against the acknowledgment of Burt Lake.

In its proposed finding, the BIA claimed that one of the Burt Lake families did not have a continuous history with the Burt Lake, and cited that several members of Burt Lake chose to enroll in the federally recognized Little Traverse Bay Band of Odawa Indians (Little Traverse Band). In response, Burt Lake removed the family in question from its membership, and provided ample evidence that Burt Lake and the Little Traverse Band were not merged by Congress. In fact, in order to receive desperately needed federal health and education benefits, it was often at the recommendation of the BIA that Burt Lake members enrolled in the Little Traverse Band.

In September 2006, the BIA issued its final determination on Burt Lake's petition denying federal acknowledgment, despite finding that Burt Lake had been recognized as a distinct Indian community by scholars, church officials, other tribes and local units of government from treaty times to the present and that Burt Lake had maintained a strong Indian community from treaty times to the present. The BIA denied the acknowledgment because several Burt Lake members had enrolled in the Little Traverse Band. Today, there are approximately 250 Burt Lake members and an additional 125 individuals who were enrolled in Burt Lake but disenrolled in order to subsequently enroll in the Little Traverse Band. Those eligible for enrollment in Burt Lake and the Little Traverse Band descend from one historical chief.

Previous legislation

During the 103rd Congress, Rep. Bart Stupak (D-MI) introduced H.R. 4232. The bill was referred to the House Committee on Natural Resources, where it was referred to the Subcommittee on Native American Affairs but no action was taken. Rep. Stupak introduced H.R. 377 in the 104th Congress. Hearings were held by the Subcommittee on Native American and Insular Affairs and it was forwarded by the Subcommittee to the Full Resources Committee by voice vote. In the 105th Congress, Rep. Dale Kildee (D-MI) introduced H.R. 948, which was referred to the Committee on Resources. After hearings and a markup were held, the bill was ordered to be reported by voice vote (House Report 105-351). On a motion to suspend the rules and pass the bill, H.R. 948 failed to receive the required two-thirds vote by the yeas and nays: 240-167. Rep. Stupak introduced H.R. 4802 in the 109th Congress but no action was taken.

COMMITTEE ACTION

H.R. 1575 was introduced on March 19, 2007 by Rep. Bart Stupak (D-MI). The bill was referred to the Committee on Natural Resources. On June 13, 2007, the Natural Resources Committee held

a hearing on the bill. On April 17, 2008, the Natural Resources Committee met to consider the bill. Rep. Dale Kildee (D-MI) offered an amendment in the nature of a substitute to make several technical changes and to clarify, at the request of the administration, the bill's findings so that they conform better to the administration's findings in Burt Lake's recognition petition. The substitute also adds a savings clause referencing the Burt Lake's service area which in this case overlaps with the service area of another federally recognized Indian tribe. Membership criteria was also clarified so that residents of Colonial Point and their descendants are eligible for membership in the tribe. Finally, the substitute made it clear that the National Environmental Policy Act must be complied with before lands are acquired. The substitute was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 sets forth the short title of the bill as the "Burt Lake Band of Ottawa and Chippewa Indians Reaffirmation Act."

Section 2. Findings

Section 2 provides findings about the Band and its dealings and relations with the United States.

Section 3. Definitions

Section 3 defines the terms "Burt Lake Band," "Indian Reorganization Act," "OFA," and "Secretary."

Section 4. Federal recognition

Section 4 reaffirms the status of the Burt Lake Band of Ottawa and Chippewa Indians as a federally recognized Indian tribe and precludes application to Burt Lake of any federal laws of general applicability to Indian tribes that are inconsistent with this bill. Once the bill is enacted, the Burt Lake Band and its members will be eligible for all services and benefits provided by the federal government to Indians because of their status as Indians. Burt Lake's service area is defined for purposes of the delivery of federal services; however, this section is not intended to alter or diminish another tribe's service area. If Burt Lake's service area overlaps with another tribe's service area, the overlap shall be addressed in compliance with existing federal policies and regulations.

The Committee understands that another federally recognized Indian tribe claims that part of Burt Lake's defined service area is within that tribe's service area. Rather than oppose this bill, that tribe has agreed to resolve the overlap in compliance with existing federal policies and regulations. In order to ensure that the definition in this bill will not be given undue weight as a statutory determination, a savings clause was added to ensure that the bill remains neutral. Therefore, it is the Committee's intent that in resolving the overlap, Section 4 shall not be construed to the benefit or detriment of either tribe.

Section 5. Reaffirmation of rights

Section 5 reaffirms all rights and privileges of the Burt Lake Band and its members which may have been abrogated or diminished. Nothing in this Act shall be construed to diminish any right or privilege of the Burt Lake Band or its members that existed before the date of enactment of this Act. Except as otherwise specifically provided in any other provision of this Act, this Act shall not be construed as altering or affecting any legal or equitable claim the Burt Lake Band may have to enforce any right or privilege reserved by or granted to Burt Lake which was wrongfully denied to or taken from the Band before the date of enactment of this Act.

Section 6. Tribal lands

Section 6 directs the Secretary of the Interior to acquire land in Cheboygan County in trust status for the benefit of the Burt Lake Band provided that, if at the time the Secretary accepts the land, there are no adverse legal claims on such property and the Secretary has confirmed that the National Environmental Policy Act of 1969 has been complied with regarding the trust acquisition of the property. Once the lands are in trust, the lands will be considered the Burt Lake Band's initial reservation. The Secretary may also acquire and accept land in other geographic areas into trust for the benefit of Burt Lake and to declare those lands to be a part of Burt Lake's reservation.

Section 7. Membership

Section 7 provides that the initial membership of the Burt Lake Band of Ottawa and Chippewa Indians consists of persons who can present evidence, acceptable to the Band, showing that they meet the requirements of the membership criteria set forth in this section. To qualify for membership in the Burt Lake Band, a person must demonstrate through evidence acceptable to the Band that the person meets at least one of the three criteria set forth in the bill. In addition to meeting at least one of the three criteria, a person must demonstrate (1) that the person has tribal relations with other Burt Lake members; (2) that the person's ancestors had tribal relations with other Burt Lake members on a substantially continuous basis from 1910 to the present; (3) that the person has a completed tribal membership enrollment file; and (4) that the person's membership application has been processed and approved for membership in the Burt Lake Band.

Not later than twelve months after the date of the enactment of this Act, the Band shall provide a copy of the base roll to the Assistant Secretary of Indian Affairs. The base roll shall consist of the 320 persons whose names were listed on the official roll of Burt Lake as submitted to the Office of Federal Acknowledgment on May 2, 2005, and the biological sons and daughters who were born to those members between the submission and the enactment of this Act.

The Committee notes that in *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978), the Supreme Court upheld a tribe's right to determine its own membership. This bill recognizes Burt Lake's sovereignty to determine its own membership by specifying that the Band has the authority to determine who does and does not meet the specified criteria.

Section 8. Constitution

Section 8 provides that the initial constitution of the Burt Lake Band of Ottawa and Chippewa Indians shall be the constitution that the Band submitted to the Office of Federal Acknowledgment on May 2, 2005.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. **Congressional Budget Act.** As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. **General Performance Goals and Objectives.** As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to reaffirm and clarify the federal relationship of the Burt Lake Band as a distinct federally recognized Indian Tribe.

4. **Congressional Budget Office Cost Estimate.** Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1575—Burt Lake Band of Ottawa and Chippewa Indians Reaffirmation Act

H.R. 1575 would provide federal recognition to the Burt Lake Band of Ottawa and Chippewa Indians in Michigan. Providing federal recognition would allow the tribe to receive funding from various federal programs. CBO estimates that implementing H.R. 1575 would cost about \$1 million a year over the 2009–2013 period. Such costs would be subject to appropriation of the necessary funds. Enacting the bill would not affect direct spending or revenues.

H.R. 1575 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enacting the

bill would benefit the tribe, making its members eligible for additional federal benefits.

The Bureau of Indian Affairs (BIA) provides funding to federally recognized Indian tribes for various purposes, including child welfare services, adult care, community development, and general assistance. A portion of that funding, classified in the BIA budget as Tribal Priority Allocations, is awarded solely on the basis of population. Based on information from BIA, CBO expects that the Burt Lake Band would receive \$160,000 a year in such funding, based on an estimated service population of about 325 members. Those amounts are subject to the availability of appropriated funds. Burt Lake may also receive additional BIA services based on other needs and characteristics of the tribe. Based on information from BIA, CBO estimates that any additional costs for those services would not be significant over the 2009–2013 period.

H.R. 1575 also would make members of the tribe eligible to receive health benefits from the Indian Health Service (IHS). About one-third of Burt Lake members currently receive IHS benefits because tribal members in Michigan are not required to be enrolled in a federally recognized tribe to receive those health services. CBO estimates that, under the bill, about 100 additional members would receive health benefits provided by IHS. CBO expects that the cost to serve those individuals would be similar to those for current beneficiaries, (about \$4,000 per individual in 2008). Assuming appropriation of the necessary funds, CBO estimates that additional IHS benefits for the tribe would cost around \$400,000 a year over the 2009–2013 period.

In addition to receiving benefits and services from BIA and IHS, certain Indian tribes are eligible to receive funding from other federal programs within the Departments of Education, Housing and Urban Development (HUD), Labor, and Agriculture. Based on information from the tribe, CBO expects that members would likely use HUD resources for home construction. We estimate that providing such resources would cost less than \$500,000 a year over the 2009–2013 period.

Finally, the bill would require the Department of the Interior (DOI) to take certain land into trust for the benefit of the tribe and to declare those lands part of the tribe's reservation. Based on information from the tribe, CBO expects that the tribe would request trust status for about 20 acres of tribal-owned land in northern Michigan. CBO estimates that the cost to DOI of taking the lands into trust would be insignificant over the 2009–2013 period.

The staff contact for this estimate is Leigh Angres. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 1575 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

